



July 7, 2000

Mr. Steven D. Monté  
Assistant City Attorney  
City of Dallas  
2014 Main Street, Room 206  
Dallas, Texas 75201

OR2000-1534A

Dear Mr. Monté:

You ask this office to examine Open Records Letter No. 2000-1534 (2000) because you believe that this office failed to consider a properly raised and applicable exception to disclosure. Your request was assigned ID# 136969.

The Dallas Police Department, which you represent, received a request for the full police report and “any and all documents on this number 99-051965.” You indicate that the responsive information consists of offense report number 0597138-H, which you have submitted for our review. In your original request for a decision to this office, you claimed that the requested information was excepted from disclosure under sections 552.101 and 552.108 of the Government Code. In Open Records Letter No. 2000-1534 (2000), this office found that the department could withhold all of the requested information under section 552.108 except for basic information. Gov’t Code § 552.108(c). The previous decision did not address your other claimed argument under section 552.101 of the Government Code. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, because you properly raised section 552.101 in your previous request for a decision and this office did not consider it, we will now consider your argument under section 552.101.

You claim that because the requested information names two juvenile suspects, section 552.101 protects the information from disclosure in its entirety. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

After reviewing the submitted information, we agree that the requested information is confidential under section 58.007(c) because it involves juvenile conduct that occurred after September 1, 1997. Thus, you must withhold the information from disclosure under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

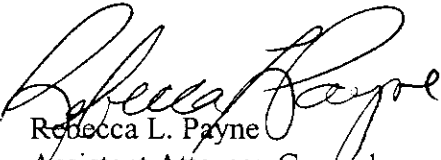
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Rebecca L. Payne  
Assistant Attorney General  
Chief, Open Records Division

RLP/JDB/ljp

Ref: ID# 136969

Encl. Submitted documents

cc: Mr. Gordon Mathis  
4742 Hatcher Street  
Dallas, Texas 75210  
(w/o enclosures)